THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

W.P. No. 4967 of 2002

Dated:13.12.2007

Between:

Ananth Prasad and others.

..Petitioners.

and

The Chief Secretary, Municipal corporation & Urban Development Authority, Government of A.,P., Secretariat, Hyderabad and others.

..Respondents.

THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

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ORDER

The case of the petitioners is that their father Raja Ram purchased the residential house bearing No. 21-6-873 to 875 under a registered sale deed dated 12.04.1952 and later, their father mortgaged the house to the father of the 4th respondent in July, 1962 under a registered usufructuary mortgage deed for a period of two years, executed in the name of the 4th respondent and repaid the amount in August, 1975. Though the amount borrowed was repaid, a release was not obtained. During road widening, an extent of Ac.34.23 sq. yards of the house was affected with the structures thereon and so, they requested the Municipality to pay the compensation for the structures that were affected in their house. Though their father is no more, as the cheque was issued in the name of their father, they requested respondents 1 to 3 to give the cheque in their name. Later, they came to know that inasmuch as the 4th respondent is objecting issuance of the cheque to them respondents 1 to 3 are not issuing a cheque in their favour. Therefore, they filed this writ petition seeking a direction to respondents 1 to 3 to pay compensation for demolition of structure of the house to them.

2. Though notice of the writ petition was served on respondents 1 to 3 and though they appeared through their standing counsel they did not file any counter. As 4th Respondent refused to receive the notice, service of notice on the 4th

respondent is sufficient.

3. Since the averment that the cheque was prepared in the name of the father of the petitioners and that the petitioners requested the cheque being given in their name due to the death of their father is not denied or disputed, and as respondents 1 to 3 seem to have withheld the cheque at the instance of the 4th respondent, and as 4th respondent did not chose to put in appearance and state how he is entitled to the compensation for the property belonging to the petitioners, the writ petition is disposed of with a direction to respondents 1 to 3 to pay the value of the demolished structure of the house bearing No. 21-6-873 to 875 at Moosabowli, Charmahal, Hyderabad to the petitioners, as expeditiously as possible, at any rate, within a period of two months from the date of receipt of a copy of this order. No order as to costs.

C.Y.SOMAYAJULU, J

Dated: 13.12.2007

SJ